

ONE CALL CONTRACT

PUC-11-002

STATE OF SOUTH DAKOTA CONTRACT FOR TEMPORARY ONE CALL ASSISTANCE

Agreement made and entered into this 31st day of August, 2010,
by and between the South Dakota One Call Notification Board, a state agency, of 500 E. Capitol Ave,
Pierre, SD 57532, ("State") and One Call Systems, Inc. of 115 Evergreen Heights Dr. Pittsburgh, PA 15229
("OCS").

The State hereby enters into this Agreement for temporary services with OCS in consideration of and pursuant to the terms and conditions set forth.

1. This contract is necessary as an emergency to maintain South Dakota One Call data as necessary, to facilitate the transfer of information to the new State One Call vendor and to facilitate the creation and dispatch of August 2010 bills to South Dakota member facility operators.

South Dakota agrees, after receipt of an invoice to pay its share of costs associated with said basic services to protect its residents. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$15,000 (fifteen thousand dollars). Payment will be made by State to OCS as soon as possible after receipt of an invoice.

OCS shall at a minimum:

- a) Work with the State's new One Call vendor regarding data maintenance and facilitate the transfer of all call center activities to the new vendor.
- b) Create and submit all August invoices directly to South Dakota facility operators as it would have under its previous agreement with the State. Except, however, an insert shall be included in the bills to instruct payment be made directly to the State of South Dakota at 500 E. Capitol Ave, Pierre, SD 57501.
- c) OCS will provide a complete monthly detailed accounting of all invoices sent by it and payments received by it and/or in a third party's possession (such as the bank) to specifically account for all funds owed the State but not yet received by the State.

2. OCS's services under this Agreement shall commence immediately upon signing and end upon completion of all activities listed above. The State may terminate this contract at any time with or without cause or notice to OCS. The State understands, however, the Contract Amount will not be refunded despite termination.

3. OCS will not use State equipment, supplies or facilities.

4. Nothing in the Agreement shall be construed as an indemnification by one party of the other for liabilities of a party or third persons for property loss or damages or death or personal injury arising out of the performance of this Agreement. Any liabilities or claims for property loss or death or personal injury by a party or its agents, employees, contractors or assigns or by third persons, arising out of and during this Agreement shall be determined according to applicable law.

5. While performing services hereunder, OCS is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

6. OCS agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject OCS or the State to liability. OCS shall report any such event to the State as promptly as possible upon discovery.

OCS's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. OCS's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client

communications). Reporting to the State under this section shall not excuse or satisfy any obligation of OCS to report any event to law enforcement or other entities under the requirements of any applicable law.

7. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

9. OCS will comply in all material respects with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

10. OCS may not use subcontractors to perform the services described herein without the express prior written consent of the State.

11. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Larry Janes on behalf of the State, and by Karla McNamara, on behalf of OCS, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

12. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

13. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

STATE

OCS

BY: 
Larry Janes

BY: 
Karla C.D. McNamara

SD One Call Executive Director
(TITLE AND AGENCY)

Sole Shareholder, Director
and Chief Executive Officer

Sept 1, 2010
(DATE)

31 August 2010
(DATE)